

ORDINANCE NO._____, SERIES 2009

AN ORDINANCE ADDING A NEW SECTION TO CHAPTER 94 OF THE LOUISVILLE METRO CODE OF ORDINANCES RELATED TO FIRE PREVENTION PROHIBITING THE SALE OF NOVELTY LIGHTERS IN LOUISVILLE METRO.

Sponsored By: Councilwoman Mary Wooldridge

WHEREAS, the Louisville Metro Council is vested with the power, duty, and obligation to enact ordinances and laws that are designed to provide for public safety, health, and welfare of the citizens of Louisville Metro; and

WHEREAS, empirical evidence exists to support the conclusion that novelty lighters pose a threat to the safety, health, and welfare of the citizens of Louisville Metro; and

WHEREAS, novelty lighters have features which are attractive to children, including visual effects, flashing lights, musical sounds, or toy-like designs; and

WHEREAS, the United States Consumer Product Safety Commission has recalled thousands of novelty lighters since 1996 due to their danger posed to public safety; and

WHEREAS, functions of novelty lighters can be achieved without posing a danger to public health and safety; and

WHEREAS, many public safety agencies support the prohibition of the sale and distribution of novelty lighters; the National Fire Protection Association, National Volunteer Fire Council, Western Fire Chiefs Association, and the National Association of State Fire Marshals have lent their support to this issue; and

WHEREAS, it is in the best interest of community citizens and residents to prohibit sales and distribution of novelty lighters within the area of Louisville Metro. To reduce their availability to the general public, and, more particularly to children it is the belief of the Metro Council that banning the sale and distribution of such devices will reduce the high incidence of accidents among children resulting in the accidental ignition of fires and/or physical injuries.

WHEREAS, juvenile fire setting has been identified as the fastest growing fire threat in the United States with more than 300 people killed. More than 30 percent of those killed have been children. In addition, almost \$1 billion in property has been destroyed as a result of these incidents.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL, AS FOLLOWS:

CHAPTER 94: FIRE PREVENTION

94.50 PROHIBITION OF NOVELTY LIGHTERS

SECTION I. DEFINITIONS

“Novelty Lighter” means a lighter that has entertaining audio or visual effects, or that depicts (logos, decals, art work, etc.) or resembles in physical form or function:

1. articles commonly recognized as appealing to or intended for use by children ten (10) years or younger. This includes, but is not limited to, lighters that depict or resemble cartoon characters, toys, guns, watches, musical instruments, vehicles, toy animals, food or beverages, or those features that initiate visual effects, play musical notes or have flashing lights or;
 2. any other article such that it is not readily identifiable as a lighter.
- A novelty lighter may operate by any fuel, including butane or liquid fuel.

SECTION II. EXCEPTIONS

A “Novelty Lighter” does not include any lighter manufactured prior to 1980; or any lighter that lacks a device necessary to produce combustion or flame.

SECTION III. PROHIBITION

Prohibition, inapplicability. The retail sale, offer of retail sale, gift or distribution of any novelty lighter within the jurisdiction boundaries of Metro Louisville is prohibited. This prohibition is inapplicable to: (1) novelty lighters which are being actively transported through the city; or (2) novelty lighters located in a warehouse closed to the public for purpose of retail sales.

SECTION IV. ENFORCEMENT

The provisions of this section shall be enforced by the fire marshal of any fire department, any police officer, and any other City Official authorized to enforce any provision of this Metro Louisville Ordinance.

SECTION V. DEFENSES

It shall be a defense to this section if prior to the retail sale, offer of retail sale, gift, or distribution the person or entity engaged in the retail sale, offer of retail sale, gift, or distribution obtains written certification from the fire chief of the city or fire district in which the transaction occurs that the lighter does not constitute a “novelty lighter” as defined in this subchapter.

SECTION VI. PENALTIES

Any person, firm, or corporation violating any of the provisions of this ordinance, or neglecting to comply with any order issued to any section hereof, shall be guilty of a misdemeanor, and shall be fined not less than Twenty-Five Dollar (\$25.00) nor more than Five Hundred Dollars (\$500.00), or shall be imprisoned for not more than thirty (30) days, or both. Each day’s violation shall constitute a separate offense.

SECTION VII. SEVERABILITY

If any section, subsection, sentence or clause of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, then such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION VII.

This ordinance shall take effect upon its passage and approval.

Kathy Herron
Metro Council Clerk

David Tandy
President of the Council

Jerry E. Abramson
Mayor

Date:

APPROVED AS TO FORM AND LEGALITY:

MICHAEL J. O'CONNELL
Jefferson County Attorney

BY: _____
Chaper 94 Amendment – Novelty lighter 2-20-09